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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	

To: The Commission

VERIZON WIRELESS
OPPOSITION TO PETITIONS FOR RECONSIDERATION

VERIZON WIRELESS

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Verizon Wireless hereby submits its opposition to portions of the petitions for reconsideration filed by the California Public Utilities Commission ("California"), the Florida Public Service Commission ("Florida"), the Maine Public Utilities Commission ("Maine"), and the Public Utilities Commission of Ohio ("Ohio") with respect to the March 31, 2000 *Report and Order.*[1]

I. STATE ACCESS TO CONFIDENTIAL DATA SHOULD NOT BE EXPANDED

The Commission should reject requests by California, Maine, and Ohio to allow states full access to confidential carrier data in the NANPA's possession and that the NANPA and the Pooling Administrator be obliged to notify states of all code and block requests upon submission.[2]

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[1] *Numbering Resource Optimization,* CC Docket 99-200, *Report and Order and Further Notice of Proposed Rulemaking,* 15 F.C.C.R. 7574 (2000), *Erratum* (rel. July 11, 2000) (relevant portions referred to as *Report and Order* and *Further Notice,* respectively), *summarized,* 65 Fed. Reg. 37,703 (June 16, 2000), 65 Fed. Reg. 43,251 (July 13, 2000).

[2] California Petition at 7-14, 18-19; Maine Petition at 8-11; Ohio Petition at 5-13.

States have no need for broader access to confidential, disaggregated, carrier-specific data to carry out the responsibilities delegated to them by the Commission. For the most part, aggregate data should be sufficient for states to fulfill the administrative functions for which the Commission has delegated them authority. To ensure that states have adequate carrier-specific disaggregated information for planning purposes, the Commission has made provision for states to have access to the semiannual utilization and forecast data filed with the NANPA, provided adequate protections are in place to secure the confidentiality of the data. The Commission has also allowed states to engage in carrier-specific data collection on a one-shot basis for purposes such as audits. Further access to carriers' confidential data is simply not needed as a general matter.

Given the relatively limited role for the states under the federal scheme established by 47 U.S.C. § 151(e), there is no merit to Maine's and California's request that the Commission require the NANPA and the Pooling Administrator to notify states every time a carrier submits a code or thousands' block application. These applications are acted upon by NANPA or the Pooling Administrator, not the states. States do not need immediate notification of such applications; the post-authorization notice provided by the NANPA is adequate for the states' performance of their roles. Expanding states' access to this data is particularly inadvisable in light of the extremely sensitive and confidential nature of requests for numbering resources. Greatly increasing the volume of confidential information provided to states will result in an unacceptable risk of inadvertent disclosure.[3]

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[3] Mandatory notification to states also should be rejected because it would delay action on applications for critically needed numbering resources and inject uncertainty into the processing of these applications. Maine suggests that the Commission might require a three-day "interval" between NANPA's or the Pooling Administrator's receipt and processing of applications "to provide states time to review the application." Maine Petition at 13. Given that states do not

(continued on next page)

California claims that it needs carrier-specific, disaggregated data to carry out its responsibilities under state law and that it has the right to such data under state law.[4] California fails to note, however, that federal law, and not state law, governs number administration, pursuant to 47 U.S.C. § 151(e)(1). Congress has preempted all state authority concerning numbering by vesting plenary power in the FCC. The only authority state regulators have over number administration is authority delegated to them by the Commission pursuant to federal law. Accordingly, the state-law statutory authorities cited by California are without force, because Congress has occupied the field. California's authority and responsibilities exist as a matter of federal law, which supersedes the state statutes cited.

II. CARRIERS SHOULD NOT BE REQUIRED TO SUBMIT THOUSANDS' BLOCK LEVEL MTE AND UTILIZATION DATA TO OBTAIN GROWTH NUMBERING RESOURCES

The Commission should reject Florida's request that all applications for growth numbering resources include both months-to-exhaust ("MTE") and utilization level information at the thousands' block level.[5] Currently, non-pooling carriers must submit MTE and utilization data to NANPA at the NXX level by rate center when requesting growth resources. Given that non-pooling carriers are not subject to thousands' block pooling, there is no need for more data more granular than this. Florida's argument that carriers sometimes have thousands' blocks with low utilization even though their overall NXX/rate center utilization "may suggest that a carrier needs an additional code"[6] misses the point. Non-pooling carriers cannot participate in

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(footnote continued)
have the power to approve or disapprove such applications — which would result in even greater delays — there is no need for state review.

4 California Petition at 11, 12 & n.13.

5 Florida Petition at 3-4.

6 *Id.* at 3.

thousands' block pooling, so their need for numbers must be evaluated at the NXX level. If a carrier meets the prescribed utilization threshold and is sufficiently close to exhaust to justify assignment of growth codes, the fact that the carrier has one or more empty thousands' block is irrelevant to whether it should receive additional numbering resources.

Increasing carriers' reporting obligations tenfold — requiring *ten* sets of thousands' block utilization and MTE reports and MTE worksheets for each NXX, instead of just one — will be a huge increase in burdens and corresponding costs, and should not be done unless there is a compelling reason. Here there is not. States already have access to the carriers' semiannual utilization and forecast reports by thousands' block, in pooling areas. There is no reason for requiring non-pooling carriers to submit thousands' block data every time they apply for a growth code.

III. NEWLY OBTAINED NUMBER RESOURCES SHOULD NOT BE CONSIDERED IN COMPUTING UTILIZATION

The Commission should reject Maine's request that newly obtained numbers be considered part of a carrier's inventory for purposes of computing utilization.[7] Under Section 52.15(g)(3)(ii), a carrier applying for growth codes is entitled to exclude from its inventory of numbers "[n]umbering resources activated in the Local Exchange Routing Guide ("LERG") within the preceding 90 days of reporting utilization levels."[8] The staff, in response to a filing by Maine and other states, has indicated that this rule does *not* exclude newly obtained numbers for calculating months to exhaust.[9] Verizon Wireless warned in its petition for reconsideration that

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[7] Maine Petition at 10-11.

[8] 47 C.F.R. § 52.15(g)(3)(ii).

[9] Public Notice, *Common Carrier Bureau Responses to Questions in the Numbering Resource Optimization Proceeding*, CC Docket 99-200, DA 00-1549 (July 11, 2000) (*Staff PN*), at 1 n.5 (*citing* Letter to the Secretary from Trina M. Bragdon of the Maine Public Utilities

(continued on next page)

there was a danger that this would be misinterpreted as requiring new numbers to be included in inventory for purpose of calculating utilization as well, which would be flatly inconsistent with both the rule and the rationale for it.[10] Maine has now taken issue with the staff's clarification and asked that the rule be amended to include newly acquired numbers for calculating utilization.

Maine's petition completely ignores the reason for the rule. Paragraph 111 of the *Report and Order* states:

> We define "newly acquired numbers" as those that have been activated with the LERG, and thus are available for assignment, within the preceding 90 days of reporting utilization. *Because we are aware that carriers cannot be reasonably expected to achieve significant utilization levels immediately in newly acquired numbering resources, we conclude that newly acquired numbering resources can be excluded from the calculation. Further, excluding newly acquired numbering resources allows carriers to maintain adequate inventories in preparation for specific promotional offerings and accommodates wireless carriers' seasonal fluctuations in demand.*[11]

This rationale continues to be valid. Maine's concern that a carrier could take improper advantage of this exclusion and obtain virtually endless growth codes by repeatedly filing for growth codes while excluding recently-obtained numbers is ill-founded. Because newly-obtained numbers *are* counted when determining months to exhaust, a carrier with vacant "new" numbering resources could not obtain additional growth codes without including those new

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(footnote continued)
Commission, dated April 19, 2000 (State *ex parte*); the letter was filed on behalf of the Arizona Corporation Commission, the California Public Utilities Commission, the Connecticut Department of Public Utilities Control, the Florida Public Service Commission, the Indiana Public Utility Regulatory Commission, the Maine Public Utilities Commission, the Massachusetts Department of Telecommunications and Energy, the Missouri Public Service Commission, the New York Public Service Commission, the North Carolina Utilities Commission, the Pennsylvania Public Utility Commission, the Texas Public Utility Commission, the Virginia State Corporation Commission, the Wisconsin Public Service Commission, and the Washington Utilities and Transportation Commission), 4.

[10] *See* Verizon Wireless Petition for Reconsideration at 10-11.

[11] *Report and Order* at ¶ 111 (footnote omitted, emphasis added).

numbers in its MTE worksheet. Excluding the new numbers in calculating utilization will simply allow a carrier subject to a utilization threshold to satisfy the threshold; it will not allow the carrier to project a need for additional numbers without taking the new numbers into account. If the carrier continues to need additional numbers, based on an MTE forecast that takes the new numbers into account, there is no justification for barring the carrier from making such a filing.

The rule as it stands properly accommodates the numbering needs of carriers whose growth is seasonal or promotion-dependent. Maine's proposal does not. A wireless carrier that has recently received new codes may need to submit an application for further new codes several months before its peak growth season, and can justify its request based on the fact that heavy seasonal growth will exhaust its existing numbering resources, including the newly-obtained codes. If those new codes are not yet populated, its utilization rate might well fall below the threshold if the rule were revised as Maine asks, causing the carrier to be ineligible to apply for codes that it indisputably needs. This would result in the carrier exhausting its number supply during the peak growth season and having to turn away customers. Maine's proposal is thus contrary to the public interest. The current rule should be reaffirmed.

IV. STATE AUTHORITY TO ENGAGE IN INDEPENDENT DATA COLLECTION SHOULD NOT BE EXPANDED

The Commission should reject Ohio's request that states have expanded authority to engage in independent data collection concerning number utilization.[12] The *Report and Order* generally supplanted any state authority to order data collection by carriers on any regular basis, given the mandatory reporting requirements established for all carriers and the states' ability to obtain carriers' semi-annual forecast and utilization reports: "[I]n granting states access to the

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[12] Ohio Petition at 4-5.

federally ordered reports, we are eliminating the need for states to require carriers to report utilization and forecast data on a regular basis. Thus, we supersede the authority specifically delegated to some states to require such reporting."[13] However, the Commission provided states with a limited opportunity to engage in direct data collection from carriers:

> [W]e do recognize that from time to time *a state may need to audit a specific carrier* and will need access to more granular data. Therefore, our prohibition on state-ordered reporting does not apply in instances *where states need to gather data for a specific purpose*, as long as these data reporting requirements *do not become regularly scheduled state-level reporting requirement[s]*.[14]

Ohio now seeks to upset this carefully limited exception and open the doors to pervasive state information collection. The Commission should resist Ohio's request, because unchecked state information collection would:

- Potentially impose massive burdens and costs on telecommunications carriers;
- Result in conflicting data elements and reporting formats from state to state;
- Duplicate, overlap with, or conflict with federal reporting requirements; and
- Risk disclosure of confidential company-specific data.

In short, Ohio would have the Commission overturn the policy of no independent state information collection authority, with one very limited exception, and supplant it with state authority to go on endless fishing expeditions. There is no reason for doing so, and every reason for more carefully restricting state information gathering.

As Verizon Wireless indicated in its Petition for Reconsideration, the exception crafted by the Commission to address states' ability to audit a specific carrier appears to have swallowed

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13 *Report and Order* at ¶ 76.

14 *Id.* (emphasis added).

the rule against state-ordered reporting.[15] Some states envision few restrictions on their ability to gather data, even when it duplicates or conflicts with data already being collected under the FCC's mandates. For example, California imposed reporting requirements as part of a statewide utilization study. Under this state data collection requirement, carriers are required to submit utilization spreadsheets to California on October 1, 2000, only two weeks after the carriers must submit utilization data (in a different format, and for a different date) to NANPA pursuant to the Commission's rules. On February 1, 2001, these carriers will have to supply another report to California at the same time as they file with NANPA, and, again, the contents and format will be different. These reporting requirements are clearly not what the Commission intended to allow when it established an exception for special-purpose state information not on a regular basis.

For the reasons stated in Verizon Wireless's Petition for Reconsideration, state authority to collect number utilization and demand information should be narrowed, not broadened.

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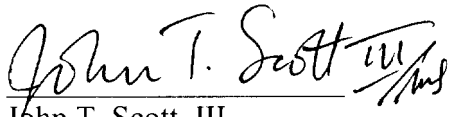
[15] *See* Verizon Wireless Petition for Reconsideration at 22-24.

CONCLUSION

For the foregoing reasons, Verizon Wireless urges the Commission to deny reconsideration its rules and policies adopted in the *Report and Order* as proposed by California, Florida, Maine, and Ohio.

Respectfully submitted,

VERIZON WIRELESS

By: 

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August 15, 2000

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